

Meeting of 1998-12-15 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL RESCHEDULED REGULAR MEETING  
DECEMBER 15, 1998 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Cecil E. Powell, Mayor, Presiding

Also Present: Bill Baker, City Manager; John Vincent, City Attorney; Brenda Smith, City Clerk

The meeting was called to order at 6:00 p.m. by Mayor Powell. Invocation was given by Pastor John Butler, Beal Heights Presbyterian Church, followed by the Pledge of Allegiance. Notice of meeting and agenda were posted on the City Hall notice board as required by State law.

ROLL CALL

Present: G. Wayne Smith, Ward One  
Richard Williams, Ward Two  
Jeffrey Sadler, Ward Three  
John Purcell, Ward Four  
Robert Shanklin, Ward Five  
Charles P. Beller, Ward Six  
Stanley Haywood, Ward Seven  
Randy Warren, Ward Eight

Absent: None.

PRESENTATION OF CITIZEN OF THE MONTH AWARD TO DR. GILBERT GIBSON

Donna Richey, Mayor's Commission on the Status of Women, introduced Dr. Gibson as Citizen of the Month for December. She said Dr. Gibson has been a resident of Lawton for 40 years and earned a doctor of dental surgery degree; he is no longer practicing dentistry as his business interests changed to finance. Dr. Gibson is currently Chairman of Citizens Bank in Lawton, and the Director of First Southwest Bank in Frederick. Dr. Gibson's past and present involvements include the Lawton Chamber of Commerce and Industry; Lawton Metropolitan Area Airport Authority; USO Board of Directors; YMCA Director; Comanche County Child and Youth Advisory Board; Campaign Chair for United Way; Lawton Fort Sill Red Cross; director and currently chairman of Lawton Retail Merchants Association; Commissioner for the Oklahoma Department of Transportation; Civilian Aide to the Secretary of the Army; and the Economic Club of Oklahoma. Dr. Gibson has served on the Oklahoma State Chamber of Commerce and the Oklahoma Turnpike Authority. She said Dr. Gibson has spent a great deal of time trying to improve the industrial, economic and civic progress of the community. He is definitely a leader in the growth and development of the community, which creates a better quality of life for all.

Mayor Powell presented awards and recognition from Senator Helton and the Oklahoma State Senate, Congressman J. C. Watts, the Oklahoma House of Representatives, and the City of Lawton Mayor and Council. Powell said that since he became Mayor, he found that Dr. Gibson was willing to help open any door possible for this community, not only in the City, but also on the state and national levels. He recognized Dr. Gibson's wife, Aulena, also.

Dr. Gibson said he had enjoyed living in Lawton for 40 years, and that it had been a great place to live and raise a family. He said he appreciated the recognition provided.

Beller said Dr. Gibson also served on the Oklahoma Aeronautics Commission and had been a staunch supporter of the Lawton-Fort Sill Airport. He said Gibson worked hard to see that Lawton received grants, and that much had been accomplished due to those efforts.

PRESENTATION OF EMPLOYEE OF THE MONTH AWARD TO BARBARA CURRAN, AUDITING DEPARTMENT

Rick Endicott, Auditing Director, introduced Barbara Curran as the Staff Auditor and Employee of the Month for December. He said when he came to work for the City in 1990, Ms. Curran was on the Auditing staff, which was very fortunate for him because she is a dedicated employee and trustworthy. Endicott said most people do not readily welcome a visit from an auditor but that Ms. Curran conducts herself in a professional manner and was very deserving of the award.

Mayor Powell read a Certificate of Honor from the City of Lawton and expressed appreciation for Ms. Curran's work. He presented her with two non-chargeable days of leave, a plaque from T & S Printing, free tire rotation and balancing from Midas, two free buffets from CiCi's, a \$50 savings bond from BancFirst; free lunch from Garfield's; and an emu oil gift set from Perfect Marriage.

Ms. Curran thanked those responsible for selecting her for Employee of the Month, and thanked the Mayor for the presentation. She expressed appreciation to Mr. Endicott, stating he had been a great mentor for her by helping her to learn and improve on the job, and to her co-worker who had always been very supportive and that the three of them work together well as a team in the Auditing Department. Ms. Curran thanked employees throughout the City and stated their help allowed her to do her job.

AUDIENCE PARTICIPATION: None.

UNFINISHED BUSINESS:

1. Consider awarding contract for Printed Plastic Trash Bags and authorizing the expenditure of Council Contingency Funds. Exhibits: Vendor's mailing list; Bid tabulation; Department recommendation. Baker said this item was tabled on November 24 because Council had requested RFP's on composting, and those are currently being reviewed. He recommended Council award this bid because it is a requirements type contract and will not obligate the City to order unless the plan is followed through to make this change on April 1. Baker said if the bid is not awarded tonight, it could require re-advertisement which may cause a delay in receiving the bags.

Warren asked if Council should authorize expenditure of Council Contingency funds since it is a requirements type contract. Vincent said the bid expires by operation of law within 60 days of the opening; if Council decides to continue with this project through the composting RFP's, it could, at that point, authorize an expenditure from some fund, and it does not have to be done tonight. Warren asked if it would be legal to award the contract without specifying a funding source. Vincent said no, the funding source must be identified, although Council could direct staff not to order from the contract without further direction.

Purcell asked if this award reduces the amount available in Council Contingency by \$63,000 and Vincent said potentially. Vincent said the motion could include language not to order without further direction from Council.

MOVED by Shanklin, SECOND by Sadler, to award the contract. (Vendor is Central Poly Corp., Linden, NJ.)

Mayor Powell asked if Shanklin wanted to stipulate that nothing would be bought. Shanklin said that had been discussed and it is a requirements type contract to lock in the prices. Baker said staff would not order any bags until Council provides further direction, and if another fund is selected at that point, it could be changed. Williams asked for further explanation. Vincent said staff will notify the successful bidder that the requirements type contract has been accepted and signed, but the bidder will not get a notice to proceed and no orders will be placed.

Haywood asked the amount available in Council Contingency. Steve Livingston, Finance Director, said there is \$140,000, with a potential \$25,000 item not deducted for the Centennial Celebration.

VOTE ON MOTION: AYE: Williams, Sadler, Purcell, Shanklin, Beller, Haywood, Warren, Smith. NAY: None. MOTION CARRIED.

BUSINESS ITEMS:

2. Consider authorizing an individual designated by Fort Sill to participate in Council meetings as a non-voting representative. Exhibits: None.

Vincent said in working with the Staff Judge Advocate at Fort Sill he had prepared a proposed amendment to Council Policy 1-6, which is the Council Rules of Procedure. The rules amendment cannot be acted on tonight; Fort Sill has approved the proposal and Council comments will be received between now and the next meeting when this will be presented for action, if the concept is approved tonight.

Beller said the third paragraph states "the agency's representative/liaison may be asked to be recognized by the Mayor to participate in debate only on matters of interest to the agency". He said he found that ambiguous and a subject of debate as to what would be of interest to the agency. Beller recommended the liaison person be allowed to ask to be recognized to participate in discussion on any item being considered. Vincent said he would look at that provision. Mayor Powell asked members to visit with Vincent concerning other items of interest before the next meeting.

Vincent said the item tonight is for Council to approve the concept and direct him to finalize the document presented.

MOVED by Warren, SECOND by Smith, to approve the concept and ask Mr. Vincent to prepare the documents necessary for Council approval. AYE: Sadler, Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams. NAY: None. MOTION CARRIED.

3. Consider adopting an ordinance adding Section 7-20-1-2012, Chapter 7, Lawton City Code, 1995, providing for the sale of residential sales permits by qualified business establishments. Exhibits: Memorandum; Ordinance No. 98-49.

Steve Livingston, Finance Director, said The Lawton Constitution requested permission to sell garage sale permits at the newspaper at the time people bought their advertisements. He said the idea appeared to have merit and would be of assistance to the customers, and he recommended approval of the ordinance.

Shanklin said the newspaper would not want to keep track of who has had a garage sale in the last 90 days. Livingston said they have agreed to comply in that regard and the City would provide a list through the computer, although that has not been finalized. Livingston said the newspaper has records of those who have placed an ad for a garage sale, and in some cases, not everyone who has advertised has obtained a permit, so they may have better records in that regard.

Shanklin asked if four people lived in a house, and all had different names, could they have four different garage sales at that same address four weeks in a row by getting a permit under a different name. Livingston said the address is the key, rather than the name, with the objective being the control of traffic in a residential area.

Purcell said this is a good idea and that Walt Disney, the advertising director for the newspaper, should be commended for bringing it forward. Warren said he also supported the concept but that there had been problems with people continually having garage sales, which should be emphasized. Livingston said some cities require a permit number to be included with the classified ad, and he had discussed that briefly with the newspaper. Baker said Mr. Disney advised him that the newspaper would be willing to not take an ad if a person does not get a permit; also the newspaper will be tied into the data base, which contains public information, and they could see how many permits had been issued for a given location. Mayor Powell thanked the Lawton Publishing Company for this initiative.

MOVED by Haywood, SECOND by Smith, to adopt Ordinance No. 98-49, waive reading of the ordinance, read the title only.

(Title read by Clerk) Ordinance No. 98-49

An ordinance related to residential sales permits, adding Section 7-20-1-2012, Chapter 7, Lawton City Code, 1995, providing for the sale of residential sales permits by qualified business establishments.

VOTE ON MOTION: AYE: Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams, Sadler. NAY: None. MOTION CARRIED.

4. Consider approving City of Lawton Fire Department participation in "Project Safe Place" program sponsored by Marie Detty Youth and Family Services Center, Inc. Exhibits: Correspondence explaining "Project Safe Place".

Don Barrington, Fire Chief, said he had been approached by Joelle Jolly, program coordinator from Marie Detty, asking for participation. He said the program establishes each fire station as a safe place for youth in crisis to go when they have problems, and they will be placed in touch with representatives of Marie Detty. Barrington said it is a worthwhile program to the youth and is targeted toward 12-18 year olds. Warren said he was totally in favor of the project. Vincent said it had been determined that a contract between the City and Marie Detty would be needed, and it will be returned when it is finalized.

MOTION by Purcell, SECOND by Haywood, to approve City of Lawton Fire Department participation in "Project Safe Place." AYE: Shanklin, Beller, Haywood, Warren, Smith, Williams, Sadler, Purcell. NAY: None. MOTION CARRIED.

5. Consider adopting an ordinance amending Sections 19-702, 19-704 and 19-707, Chapter 19, Lawton City Code, 1995, amending the fees charged by the City of Lawton for the use of facilities or participation in recreational programs and declaring an emergency. Exhibits: Ordinance No. 98- \_\_\_\_.

6. Consider adopting a resolution establishing and amending the fees charged by the City of Lawton for the use of facilities or participation in recreational programs, and providing for an effective date. Exhibits: Resolution No. 98- \_\_\_\_.

Baker requested that Items 5 and 6 be struck from the agenda. He said he had discussed it with the initiator, who concurs, and time is needed to look at the items more closely. Items 5 and 6 were struck from the agenda as requested.

ADDENDUM:

1. Consider an agreement for the Sale of Treated Water to the City of Geronimo and an agreement for the cost sharing of the construction.

Bob Bigham, City Planner, said Council has before it two executed agreements with the City of Geronimo for the sale of treated water and for cost sharing in a 12" water line. Status report was provided on October 27, 1998, and direction was provided regarding contract modification. The modifications discussed at the meeting have been made, and the City of Geronimo has executed the contracts.

Vincent said there are two blanks in paragraph 24, which are the effective date and expiration date, and if Council should approve the agreement, the effective date will be December 16, 1998, to terminate on December 15, 2003.

Mayor Powell asked if the cost to the City will be the difference in price between an 8" and a 12" line. Bigham said as discussed at the October 27 meeting, the City of Lawton is agreeing in the cost sharing to pay the difference in cash, rather than a reduced water rate, for the difference in estimated cost between an 8" line and a 12" line. Bigham said the estimated amount is \$201,659, however, these are estimates, and the agreement provides that the City of Lawton will pay 36% of the cost of the 12" water line. Mayor Powell asked if Geronimo will pay the same rate as others outside the City limits. Bigham said yes.

Shanklin said Item 19, rate for treated water by the seller, states as they exist now or may be amended hereafter. He said Ward Five thinks it is subsidizing the City of Geronimo for their water at a price of \$1.61 when they are paying \$3.50 per thousand. Shanklin said the Outside Water Sales Committee would be looking at this in the very near future, and asked if Geronimo could stand a water rate increase. Bigham said the City of Geronimo has executed the agreement and felt sure they understood they would be required to pay the current rate in the appendix of the code subject to future changes. Shanklin said Rural Water District #3 draws water from Lawton at the water tower on East Cache Road, which requires pumping, but RWD #3 pays the same price as the people other places where water is not pumped, so there are some inequities in the scale on charging outside water prices. Shanklin said citizens of Lawton should not pay more for water than citizens outside the City limits, and the outside water rates should be looked at closely.

Purcell said Council asked staff to ask the external auditors to determine the cost of treating and distributing water, and asked when that might be received. Livingston said he discussed that with the auditors quite some time ago, and they were going to discuss it with their firm members in Tulsa and give a response on what they would charge. Livingston said he had given them an old water study he had done, and a lot of the details and discussed with them what he understood the Council wanted, and he talked with them again two weeks ago but they have yet to respond as to whether they could or would do it, or what they would charge, but there would be a charge. Shanklin asked who that was with and Livingston said Stanfield & O'Dell.

Purcell said he did not think it should be a great cost because they could talk to the Internal Auditors, and they have the audit, so it should take at least a whole couple of hours to figure out what that should be and give some kind of report. Livingston said he would convey that information. Purcell said the cost for a thousand gallons of water seems to be continuing question and responses have been received from the Internal Auditor, and there are still some questions, although he had no problem with it, and an outside source should do it.

Warren said he would rather look at going to the larger line size, and that Council did not appear to have all the numbers in front of them when they agreed to pay cash money for the difference in the size of the line because for about \$100,000 more, they could have had the larger line. He asked if it was too late to consider it. Vincent said Geronimo is under a DEQ order, but DEQ understands the two cities are trying to work together on the water supply. Vincent said he mentioned an 18" line to Geronimo's attorney last week and there may still be some interest for Geronimo's benefit in the long run. Warren suggested allowing staff to return the actual cost to go with an 18" line, versus what had already been agreed to on the 12" line.

Shanklin said the line out to the landfill will be dedicated to the City of Lawton. He asked if someone wanted to tie onto that line, how would they pay for that and would Lawton be able to recover any of those costs. Bigham said once the 12" or 18" line is dedicated to the City of Lawton, then normal fees would be paid to tap and get a meter. Shanklin asked if a person would have to pay for any part of the line. Bigham said nothing is set up in anything done so far for pro rata reimbursements; under the Code, Council has that option when the City participates partially or fully in a water line, so if Council desires to look at that issue, it could be returned and that could be put in place. Shanklin said that information is needed and some of the costs should be recouped.

Williams asked if the additional \$100,000 Warren mentioned was a number staff had provided in the past. Mayor Powell said this had been discussed at length previously, and 90% of the area in question was in the flood plain and there was no development. Haywood said lack of water is the reason there is no development. Williams said the 12" line would provide enough water, and there is a matter of fire protection, but the land is not in the City limits yet so Lawton has no responsibility to provide fire protection at this point.

Vincent said if this is to be declared a pro rata line, which will take Council action, the cost recovery is limited to the size of the 12" line, so if it is expanded to an 18" line, those funds cannot be recovered under the Code as it is written. Shanklin suggested the Code could be amended and Vincent agreed.

Haywood spoke in favor of an 18" line and stated he had been approached by many Ward 7 residents about the south part of town not being developed. He said the 18" would be appropriate in a long range situation, rather than putting in a 12" line and having to replace it at a later date.

Sadler said the recommendation from the Outside Water Committee was to go with the 18" line due to the possibility of development. He said everyone recognized the need, but it had to be weighed against other needs and how it would be paid for. Shanklin said Lawton was going to require Geronimo to pay for the 12" line, according to Code, and Lawton would pay for the difference between the 12" and 18". Warren said Geronimo was to pay the difference between the 8" and 12" line with OWRB money. Bigham said that difference required another loan. Warren said Lawton was only going to fund it through lower rates for an established period until a certain amount was paid back. Warren said at some point, the 18" line would be needed and it could be done now, while the work is being done. Warren said he kept hearing people say it is all flood plain and someone should look at a map and determine how much is actually in the flood plain.

Purcell said to build a 12" line, Lawton would have to pay \$201,000. He asked if there was an estimate for the cost to build an 18" line, and if it is only \$100,000 more, it should be considered. Bigham said the second page of the commentary shows an estimated cost for the 18" line to be \$805,555; the estimated cost between the 12" and 18" line is \$245,169; the difference in cost between the 8" and 12" is \$201,659. Warren asked if the \$245,169 was in addition to the \$201,000 or if it was just an additional \$45,000. Bigham said yes, it is a two step incentive the way it came out of the water committee, two parts, \$201,000 was going to be in reduced water rates, and the \$245,169 was going to be cash money in the previous discussion, to get to the 18" line. Purcell said the agreement provides there will not be reduced water rates; he asked if Lawton will pay nothing for the 12" line. Bigham said Lawton will pay the difference between the 8" line and the 12" line. Purcell asked the cost of going from 8" to 18"; Bigham said \$201,000 and \$245,169. Warren said the reduced water rate could be considered. Beller said it is almost a half a million dollars.

Haywood said Lawton will get a water line dedicated here. Bigham said about 2-1/4 miles of line would be inside the Lawton City limits, and it is an \$805,000 project for the 8" line that would cost us the \$201,000, and the \$245,000, and then Geronimo would pick up the balance. Shanklin said that is a lot of subsidizing. Williams said if development is desired, the developer could assist in paying for the improvements. Shanklin said we helped one developer, turned another one down, and we should not give this away also.

Haywood said he would like to offer a motion to go with the 18" line

Vincent said the appropriate direction would be to table the item with directions to staff to renegotiate the cost of the 12" and the cost of the 18" line as a package, and provide direction on whether Lawton would subsidize through reduced water rates the difference between the 8" and 12" as recommended by the Outside Water Committee, or if it would be a straight pay off. Williams said that is \$446,000, and there are lines in Lawton now that we cannot take care of so that money should be used to work on Lawton's existing water lines.

Shanklin said if everyone is worried about a 12" line being too small, we could let Geronimo run an 8" line all the way, give us our water at the landfill, and charge them the appropriate price for water and if there is a developer who wants to come in, he can put in his own 18" line. Williams said a 12" line would allow for some development but not for fire protection. Vincent said the Code requires that a 12" line be extended to the City limits, so Geronimo must take a 12" line to the south side of the landfill. Shanklin said he felt Geronimo should be required to do that.

Baker said if you go with the 12" line, that does not mean there cannot be any future development in that area. He said there are other ways to meet the requirements, although the engineers are recommending an 18" line, which is understandable, but you can also pump, have storage, run additional parallel lines, or loop, so there can be development in the area even with a 12" line.

Purcell agreed an 18" line would be nice but that Lawton did not have half a million dollars to spend on it at this time given all the other problems in the City.

MOVED by Purcell, SECOND by Sadler, that the agreement for the sale of treated water to the City of Geronimo as stated here tonight be approved, and that the agreement for cost sharing of the construction of a 12" line be approved. AYE: Beller, Smith, Williams, Sadler, Purcell. NAY: Haywood, Warren, Shanklin. MOTION CARRIED.

CONSENT AGENDA:

7. Consider a request from Dayman Reinwand to purchase treated water outside the city limits and to approve a multi-meter water service agreement with the Valley View Water Association, Inc., to install a master meter for

property located at approximately NE 60th Street and Cache Road and waive the provisions of Council Policy 5.2. Exhibits: Letter of request; Location map; Excerpt of Committee Minutes; Excerpt of Council Policy 5-2; Proposed Agreement. Action: Approved the agreement with the Valley View Water Association, Inc. and waived the provisions of Council Policy 5.2.

8. Consider an agreement with Lin and Sharrie Newton to purchase treated water outside the city limits for a single-family residence located at approximately 6402 NE Cache Road. Exhibits: Letter of request; General location map; Proposed Agreement; Excerpt of Committee Minutes. Action: Approved the agreement with Lin and Sharrie Newton.

9. Consider approving the plans and specifications for a left turn bay located at NW Sheridan Road and NW Erwin Lane. Exhibits: Map. Action: Approved the plans and specifications for a left turn bay located at NW Sheridan Road and NW Erwin Lane subject to the approval of ODOT.

10. Consider approving the plans and specifications for a left turn bay located at NW Sheridan Road and NW Oak Avenue. Exhibits: Map. Action: Approved the plans and specifications for a left turn bay located at NW Sheridan Road and NW Oak Avenue subject to the approval of ODOT.

11. Consider approving the Replat of Lot 18, Block 2, Sneed Acres, Part 5. Exhibits: Plat Map. Action: Approved the Replat of Lot 18, Block 2, Sneed Acres, Part 5.

12. Consider ratifying the actions of the Public Works/Engineering Director authorizing Dobbs Washita Construction, Inc. to proceed with replacement of a collapsed sewerline located in the 800 block of NW 75th Street. Exhibits: Bid Tabulation of December 9, 1998. Action: Ratified the actions of the Public Works/Engineering Director authorizing Dobbs Washita Construction, Inc. to proceed with replacement of a collapsed sewerline located in the 800 block of NW 75th Street.

13. Consider setting a public hearing date of January 26, 1999, to consider an ordinance closing a portion of a platted utility easement on Lot 26, Block 13, Austin Addition, Part 2, located at 4635 NW Santa Fe Avenue. Exhibits: Application; Mortgage Inspection Survey; Location Map; Policy on Closing of Public Ways or Easements. Action: Public hearing set for January 26, 1999, to consider an ordinance closing a portion of the utility easement at 4635 Santa Fe Avenue.

14. Consider accepting the State Aid for Libraries grant of \$42,787 and authorize execution of the contract with the Oklahoma Department of Libraries. Exhibits: None. Action: Accepted State Aid for Libraries grant of \$42,787 and authorized execution of the contract with the Oklahoma Department of Libraries.

15. Consider entering into a contract with Mr. and Mrs. Mark Bymaster for fire protection outside the Lawton City limits, and authorize the Mayor and City Clerk to execute the contract. Exhibits: None. Action: Approved contract between Mr. and Mrs. Bymaster and the City of Lawton for fire protection outside the City limits, and authorized the Mayor and City Clerk to execute the contract.

16. Consider accepting the McMahon Auditorium portion of the General Facilities Project 97-13 as completed by Robust Construction L.L.C. and placing the Maintenance Bond into effect. Exhibits: None. Action: Accepted the McMahon Auditorium portion of the General Facilities Project 97-13 as constructed by Robust Construction L. L. C. and placed the Maintenance Bond into effect.

ITEM 17 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

18. Consider awarding contract for Liquid Sulfur Dioxide. Exhibits: Vendor's Mailing List; Bid Tabulation; Recommendation. Action: Awarded contract to DPC Industries, Inc., of Cleburne, TX., and authorized the Mayor and City Clerk to execute the contract.

19. Consider awarding contract for Radios (Mobile Radio Equipment Only). Exhibits: Vendor's Mailing List; Bid Tabulation; Recommendation. Action: Awarded contract for Items 3 (a, b, c) and 4 (a, b, c) to Lawton Communications, Lawton, OK, reject bids for Portable Radio Equipment Items 1 (a, b, c, d) and 2 (a, b, c, d) and authorized the Mayor and City Clerk to execute the contract.

20. Consider extending contract for Laboratory Services - Diazinon. Exhibits: Vendor's Mailing List; Bid Tabulation; Recommendation. Action: Extended contract with Anachem, Inc., of Allen, TX, and authorized the Mayor and City Clerk to execute the Contract Extension documents.

21. Consider extending contract for Biomonitoring Testing. Exhibits: Vendor's Mailing List; Bid Tabulation; Recommendation. Action: Extended contract with Stover & Associates, Inc., of Stillwater, OK, and authorized the Mayor and City Clerk to execute the Contract Extension documents.

22. Consider extending contract for Aluminum Sulfate - Ground. Exhibits: Vendor's Mailing List; Bid Tabulation;

Recommendation. Action: Extended contract with General Chemical Corporation, of Parsippany, NJ, and authorized the Mayor and City Clerk to execute the Contract Extension documents.  
ITEM 23 WAS CONSIDERED SEPARATELY AS SHOWN BELOW.

24. Consider approval of payroll for the period of December 14 through 27, 1998, and for the period of December 28, 1998 through January 10, 1999. Exhibits: None. Action: Approved.

Beller asked that Item 23, Mayoral appointments, be considered separately.

MOVED by Shanklin, SECOND by Smith, that the Consent Agenda be approved except Item 23.

Mayor Powell said he would like to pull Item 17 and would entertain a motion in that regard.

MOVED by Shanklin, SECOND by Smith, to approve the Consent Agenda pulling Items 23 and 17. AYE: Haywood, Warren, Smith, Williams, Sadler, Purcell, Shanklin, Beller. NAY: MOTION CARRIED.

Mayor Powell asked that Item 23 be considered at this time.

23. Mayor's Appointments. Exhibits: Memorandum.

MOVED by Purcell, SECOND by Warren, to table Item 23 until the next meeting. AYE: Warren, Williams, Sadler, Purcell, Shanklin, Beller, Haywood. NAY: Smith. MOTION CARRIED.

17. Consider awarding contract for Sewer Rehabilitation Equipment. Exhibits: Vendor's mailing list, Bid tabulation; recommendation. Recommended Action: Awarded contract to Construction Ag Supply Equipment (Case) (Item #1), of Lawton, OK; C. L. Boyd Equipment Company (Item #2, 3 & 4) of Oklahoma City, OK; and Midwestern Equipment Company (Item #5), of Oklahoma City, OK, and authorized the Mayor and City Clerk to execute the contracts.

Mayor Powell said he received a phone call from two different parties on this item, and one came in to see him. He read a letter he received tonight from Lawton Tractor and Lift stating their bid was being rejected for not meeting bid specifications, and stating the bids were written around the Case specifications making it impossible for dealers of other major brands to meet the specifications. The letter requested the item be rebid under revised specifications to allow all companies to bid. Beller asked if that referred to all of the equipment contained in Item 17. Baker said it is only the backhoe.

Shanklin suggested staff outline where the specifications are in error and how firms were excluded. Vincent said he had asked why Lawton Tractor and Lift did not meet specifications and was advised that the only thing they had a problem with was that the bucket exchange was welded on versus being bolted on, and one of the specific requirements was for quick interchange of the buckets that they be bolted on. Vincent said telephone calls were made after the bid opening and prior to Council award with different vendors, which should not have happened, and that he understood that Lawton Tractor is now saying they have a model which will meet the specifications of the quick interchange, however, that is not what they bid, and they bid a model which was welded versus bolted, and that was the only area he was advised they did not meet specifications. Vincent said it was unfortunate that the telephone calls were made and that has been discussed by staff, but right now the bid from Lawton Tractor does not meet a specific line item, and the other bidders were able to meet that, not just the Case dealer.

Williams asked if Lawton Tractor and Lift indicated a price difference between welded and bolted. Vincent said he did not speak with them, although a buyer may have done so, but he did not get into price differences.

Warren said he read the memo regarding the problem of the welding, and if they had a model that met that specification, they should have bid that one to begin with. Vincent said the firm cannot change its bid once it has been opened. Warren agreed and said they should have taken the opportunity to bid it as advertised. Williams said there is no way to win in such a situation because if the bids are all rejected and the item readvertised, the numbers are out there and it is not really very fair to the suppliers, and it may be about \$3,000 difference in price per unit.

Shanklin asked which is the legal bid and Vincent said the one recommended in the bid package. Shanklin said he had not received any calls in this regard. Mayor Powell said he received a call from both involved, and one of them came by, and there is a letter that came in tonight.

Purcell said a firm did not meet specifications, and that has come up before, and if you do not meet specifications, you are out. He said the vendor now states that he could have met specifications and asks to have the item rebid after all the competitors have submitted their prices. Purcell said both companies are local so that is not even an issue on this one.

MOVED by Warren, SECOND by Williams, to approve the bids as recommended by staff. AYE: Smith, Williams,

Sadler, Purcell, Shanklin, Beller, Haywood, Warren. NAY: None. MOTION CARRIED.

#### BUSINESS ITEMS:

25. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending litigation styled Thomas Michael Dewey v. The City of Lawton, Case No. CJ-96-485, filed in the District Court of Comanche County, State of Oklahoma, and in open session consider renewing a professional services agreement between the City of Lawton and James R. Wendelken. Exhibits: None.

26. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a lawsuit styled J. R. Ballard v. City of Lawton, Case No. CJ-98-432, Comanche County District Court, and, in open session, appoint a person to represent the City at the Settlement Conference. Exhibits: None.

27. Pursuant to Section 307B1, Title 25, Oklahoma Statutes, consider convening in executive session to evaluate the performance of the City Attorney, and, in open session, take action as necessary. Exhibits: None.

Vincent asked that Item 26 be tabled until January 12.

MOVED by Shanklin, SECOND by Haywood, to table Item 26 to January 12. AYE: Williams, Sadler, Purcell, Shanklin, Beller, Haywood, Warren, Smith. NAY: None. MOTION CARRIED.

MOVED by Williams, SECOND by Warren, to convene in executive session to consider Items 25 and 27. AYE: Sadler, Purcell, Shanklin, Beller, Haywood, Warren, Smith, Williams. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at 7:10 p.m. and reconvened in rescheduled, regular session at 7:25 p.m. with roll call reflecting all members present.

Vincent reported the Council discussed Item 25 regarding Dewey v. City and that no action was required at this time. He reported Item 26 had been tabled earlier and was not considered in executive session. Vincent reported the Council discussed Item 27, evaluation of City Attorney, and that no action was required at this time.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Beller said the taxicab committee is still working on taxicab rates and fare increases. He said a man was present earlier tonight and gave him information to pass out to Council, which he did at this time. Beller said it is just information for Council and does not reflect what the rates would be.

Warren wished the citizens, Council and staff a Merry Christmas and Happy Holidays.

Williams said citizens called him yesterday concerning continual problems in the 500 to 700 block of Woodridge. He said he appreciated staff's prompt attention and that repairs would be made tomorrow. Williams also wished everyone Happy Holidays.

Smith wished everyone Happy Holidays and encouraged those wanting a pet for Christmas to visit the Animal Shelter.

Shanklin said he wanted the City Manager to take a look at intervention in the departments when there are various codes being violated and ignored within two block of City Hall. He said there should be a way that the police department could issue tickets also.

There being no further business, the meeting adjourned at 7:30 p.m., upon motion, second and roll call vote.